

**United States Bankruptcy Court  
Western District of Wisconsin**

Cite as: [Unpublished]

**In re Marvin S. Marcus, Debtor**  
Bankruptcy Case No. MM11-87-01392

United States Bankruptcy Court  
W.D. Wisconsin

December 10, 1991

William J. Rameker, Murphy & Desmond, S.C., Madison, WI, trustee.  
Francis J. Eustice, Eustice, Albert, Hafner & Laffey, S.C., Sun Prairie, WI, for Rita  
Thomas and Carol Grunow.

Robert D. Martin, United States Bankruptcy Judge.

**MEMORANDUM DECISION**

On September 4, 1991 this court heard the application of William J. Rameker, the attorney for the trustee, for a fifth interim allowance of attorney fees and costs in the total amount of \$15,519.96 (\$15,125.75 in fees and \$394.21 in expenses).<sup>(1)</sup> Mr. Rameker also applied for a trustee fee substantially in excess of the maximum amount allowable under 11 USC §326, without giving specific notice of the requested departure from the statutory standard. An objection to both applications was made by Robert W. Aagaard, one of the debtor's creditors, on the bases that, *inter alia*, it was inappropriate to have a trustee serve as his own attorney and, that Mr. Rameker's services were of no general value to the debtor's estate. The objection to Mr. Rameker serving as his own counsel was overruled, and the objection to the trustee fee was resolved by an in-court ruling reducing the trustee fee to a level well below the maximum provided by Section 326. At the conclusion of the hearing the matter of the fees to be paid to the attorney for the trustee was taken under advisement and Mr. Rameker was given fifteen days to itemize the fees and expenses for which he sought compensation. On September 12, 1991 Mr. Rameker's itemization was filed with the court.

Section 330(a) contains the standard for determining compensable attorneys fees in bankruptcy cases, providing:

(a) After notice to any parties in interest and to the United States trustee and a hearing, and subject to sections 326, 328, and 329 of this title, the court may award to a trustee, to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney--

(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the nature, the extent, and the value of such services, the time spent on such services, and the cost of comparable services other than in a case under

this title; and

(2) reimbursement for actual, necessary expenses.

The applicant has the burden of proof with respect to the fees and costs for which she seeks compensation. See Matter of Combined Croft Corp., 58 BR 819, 821 (Bankr WD Wis 1986) ("As with all priority claimants an applicant for attorneys' fees in a bankruptcy case bears the burden of proving the necessity and reasonableness of the charges sought."). Reviewing an attorney's fees is among the most unpleasant of a Bankruptcy Judge's jobs. Congress assigned the task to the bankruptcy court because of the close attention the judges necessarily pay to the development of the particular case and to the fees sought for similar work in other cases. Thus, while the standards employed are notoriously hard to articulate, they exist in the judge's experience, background, and knowledge of the case.

Review of the itemization filed by Mr. Rameker, combined with the billing invoices (containing line-by-line entries of services rendered) submitted with the fee application, indicates that Mr. Rameker has not met his burden of proving that all the fees requested are necessary and reasonable. Many of the fees sought are excessive. The time employed to carry out relatively simple tasks appears greater than necessary and the cost to the estate of many services appears disproportionate to the benefits received. To the extent the fees are excessive, they are of less or no value to the estate. Mr. Aagaard's objection must therefore be sustained, at least in part. See Combined Croft, 58 BR at 822 (eliminating overbilling for, among other things, excessive time spent for the activity billed).

Mr. Rameker, in his itemization, attributed his fees to seven different aspects of representation. Following is a list of these seven matters, the requested fee pertaining to each, and the amount of the fee for which compensation is approved (the remainder is stricken on grounds of excessiveness):

| <u>Matter Represented</u>          | <u>Fee Requested</u> | <u>Fee Awarded</u> |
|------------------------------------|----------------------|--------------------|
| Oakview Note                       | \$ 2,515.00          | \$1,800.00         |
| Fox Run Fire Loss Ins. Litigation  | 4,210.00             | 2,100.00           |
| Park Bank Letter of Credit Claim   | 2,345.00             | 1,500.00           |
| Potential AYCO Dev. Corp. Claim    | 280.00               | 280.00             |
| Grunow Litigation re: Oakview Note | 4,870.00             | 2,000.00           |
| Fee Application Preparation        | 320.00               | 320.00             |
| <u>Miscellaneous</u>               | <u>467.00</u>        | <u>350.00</u>      |
| Total Fees                         | \$15,007.00          | \$8,350.00         |

In addition to fees in the amount of \$8,350.00, Mr. Rameker is entitled to reimbursement of expenses in the amount of \$394.21, for a total award of \$8,744.21.

**END NOTE:**

1. Mr. Rameker has already received compensation totalling \$113,909.03 from his four previous fee applications.